

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 12611 of 2005

DATED: 19.10.2005

Between:

T.N. Sreenivasulu Reddy S/o T. Narayana Reddy
R/o 5C, Rajashree Residency, SR Nagar, Hyderabad

and another.

.....PETITIONERS

AND

The Commissioner, Kapra Municipality Kapra,
Ranga Reddy District and another.

... RESPONDENTS

THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION No. 12611 OF 2005

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ORDER:

This writ petition has been filed by the petitioners, who are two in number, assailing the action of the respondents in threatening to demolish basement, compound wall, etc., without putting them on notice.

2. The first petitioner has given sworn affidavit in support of the writ petition. The affidavit, in brief, is as under:

Petitioners purchased lands under sale deeds bearing Nos. 361, 362, 7789, 7790 and 7791 of 2004 from Lakki Reddy Venkata Narasimha Reddy. By the time they purchased the lands, there were certain constructions existing; such as compound walls, fencing, and kutcha roads, etc. To convert the lands into house plots, they submitted an application to the Hyderabad Urban Development Authority (HUDA). The HUDA raised certain objections and the objections are yet to be complied with. When the respondents threatened to demolish the existing structures in the lands, the petitioners approached this Court by invoking jurisdiction under Article 226 of the Constitution of India.

3. The respondents filed counter-affidavit. One S.Ramanarayana Reddy has sworn to the counter-affidavit filed on behalf of the respondents. It is stated in the counter-affidavit that there is no approved layout for the land and the sale deeds have been secured in favour of the petitioners without there being any layout. The Municipality has identified the unauthorized plotting during the month of April, 2004 and issued notice vide No.TPS/IV/I/2004-05, dated 29.04.2004 to Sri.L.V.Narasimha Reddy to stop the unauthorized development of the land. It is further stated that the existence of compound walls and kutcha road is denied by the respondents. I deem it appropriate to refer to paras 5 and 6 of the counter-affidavit. It is thus:

“It is respectfully submitted than in reply to para 5 of the affidavit, I submit that the averments made by the petitioners in this para are denied. It is not correct to say that there were compound walls and kutcha roads. The petitioners without obtaining the layout permission has started developing the lands and constructing compound walls around the entire land without following the existing road pattern of surrounding colonies and closing the access to the existing houses around the suit schedule land.

It is respectfully submitted that in reply to paras 6 and 7 of the affidavit, I submit that the averments made by the petitioners it appears that he petitioners have approached the HUDA and submitted an application for construction of building in plot No.1 & 4. As a primary requirement, the

HUDA has issued a letter No. 11971/P4/H/04, dated 07.01.2005, to form 40'-0" feet wide B.T.Road and to submit photograph for taking further necessary action. It is further submitted that Sri.Babu Jagjeevan Welfare Association, Mallapur (V) have submitted a representation stating that some persons are occupying road portion and also water supply pipelines which are passing through this land since 20 years."

4. Heard the learned counsel for the petitioners and the learned standing counsel appearing for the respondents.

5. Learned counsel for the petitioners submits that the petitioners got the layout plan approved by the Gram Panchayat, Malapur and submitted the layout for approval to the HUDA. He further submitted that the respondents are trying to demolish the existing structures in the land without putting the petitioners on notice.

6. Per contra, learned standing counsel appearing for the respondents submits that there is no layout plan for the land and no structures are existing as on this day and that the petitioners are trying to put up structures in view of the interim orders passed by this Court.

7. A fact remains that the land in question is an agricultural land and the petitioners want to convert the agricultural land to house plots. The HUDA has not approved the layout submitted by the petitioners. It appears, certain conditions have been imposed by the HUDA and they are yet to be complied with. If at all there are any structures existing on the land, the respondents are required to serve notices on the petitioners before removing the structures. However, at the same time, the petitioners cannot be permitted to put up any structures, including effecting repairs to any of the existing structures, without obtaining permission from the respondents.

8. In that view of the matter, I deem it appropriate to dispose of the writ petition directing the respondents to put the petitioners on notice in case of their intending to demolish the existing structures on the premise of violation of any of the building rules or any other provisions of law and at the same time the petitioners shall not put up any further constructions without obtaining permission from the authorities concerned.

9. The writ petition is accordingly disposed of. No order as to costs.

19.10.2005

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